

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 30332 of 2007(J)

PETITIONER:

JK LPS DISPENSING STATION,
KOLATHARA, CALICUT, REP. BY MANAGING
PARTNER, ROSHAN D JOSEPH.

BY ADV. SRI.P.RAGHUNATH
SRI.PREMJIT NAGENDRAN

RESPONDENTS:

1. SALES TAX OFFICER(R),
III CIRCLE, CALICUT.
2. DEPUTY COMMISSIONER(APPEALS),
COMMERCIAL TAXES, KOZHIKODE.
3. SALES TAX OFFICER(RECOVERY),
CALICUT.

BY GOVT. PLEADER MR. GOVINDAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ANTONY DOMINIC, J.

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W.P. (C) No. 30332 OF 2007 J
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Dated this the 15th November, 2007

J U D G M E N T

On the basis of penalty that was imposed on the petitioner Ext. P1 notice was issued. Aggrieved by this, a revision was filed before the Commissioner for Commercial Taxes, who disposed of the matter by Ext. P7 order. By this order the Commissioner held that the matter needs re-examination. Accordingly, the case is remitted back to the 1st respondent for de novo disposal within 3 months. It was made clear in the said order that in case the petitioner fails to produce the books of account and connected evidence for 2003-04 before the 1st respondent within 15 days of receipt of that order, the order of penalty will stand revived.

2. It is submitted that Ext. P7 order was received by the petitioner on 4-6-2007 and immediately thereafter by Ext. P8 the petitioner sought an

appointment with the 1st respondent for producing the books of accounts as ordered in Ext. P7. According to the 1st respondent, the request was made beyond the time specified in Ext. P7 and on that basis the records were not accepted. It is also submitted that in the meanwhile by Ext. P4 assessment was completed based on the penalty order against which appeal and stay petition were also filed before the 2nd respondent and they were also pending. Despite the pendency of the appeal, when revenue recovery steps were initiated by Ext. P9 this writ petition is filed.

3. Now that by Ext. P7 the matter was remanded to the 1st respondent, petitioner requested by Ext. P8 for an opportunity and that is within the time specified in Ext. P7. Although this is disputed by the learned Govt. Pleader, there is no material to discredit Ext. P8. Hence, I feel interest of justice requires that the petitioner should be given an opportunity to produce the books of account as was permitted by the Commissioner of Commercial Taxes in Ext. P7 order. Accordingly, I dispose of this writ petition with the following directions:

That the petitioner shall appear before the 1st respondent on 30-11-2007 with all documents which he intends to produce and the 1st respondent shall complete the enquiry as ordered in Ext. P7. Since the order to be passed will have a bearing on Ext. P5 appeal against Ext. P4, until orders are passed as above, all further proceedings pursuant to Ext. P9 will stand stayed. Final orders shall be passed by the 1st respondent as expeditiously as possible, at any rate within six weeks of receipt of a copy of this judgment.

Petitioner to produce copy of this judgment before the 1st respondent for compliance.

**ANTONY DOMINIC
JUDGE**

jan/-